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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके ।

Separate paging is given to this Part in order that it may be filed as a separate compilation

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 18th October, 1983/Asvina 26, 1905 (Saka)

THE TEXTILE UNDERTAKINGS (TAKING OVER OF MANAGEMENT) ORDINANCE, 1983

No. 10 of 1983

Promulgated by the President in the Thirty-fourth Year of the Republic of India.

An Ordinance to provide for the taking over in the public interest of the management of the textile undertakings of the companies specified in the First Schedule pending nationalisation of such undertakings and for matters connected therewith or incidental thereto.

WHEREAS by reason of mismanagement of the affairs of the textile undertakings specified in the First Schedule, their financial condition became wholly unsatisfactory even before the commencement in January 1982 of the textile strike in Bombay and their financial condition has thereafter further deteriorated;

AND WHEREAS certain public financial institutions have advanced large sums of money to the companies owning the said undertakings with a view to making the said undertakings viable;

AND WHEREAS further investment of very large sums of money is necessary for reorganising and rehabilitating the said undertakings and thereby to protect the interests of the workmen employed therein and to augment the production and distribution at fair prices of different varieties of cloth and yarn so as to subserve the interests of the general public;

AND WHEREAS acquisition by the Central Government of the said undertakings is necessary to enable it to invest such large sums of money;

AND WHEREAS, pending the acquisition of the said undertakings, it is expedient in the public interest to take over the management of the said undertakings;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

CHAPTER I

PRELIMINARY

Short title and commencement.

1. *(1)* This Ordinance may be called the Textile Undertakings (Taking Over of Management) Ordinance, 1983.

(2) It shall come into force at once.

Definitions.

2. In this Ordinance, unless the context otherwise requires,—

(*a*) "appointed day" means the date on which this Ordinance comes into force;

(*b*) "Custodian" means the person appointed under section 4 to take over the management of the undertakings;

(*c*) "notification" means a notification published in the Official Gazette;

(*d*) "prescribed" means prescribed by rules made under this Ordinance;

(*e*) "textile undertaking" or "the textile undertaking" means an undertaking specified in the second column of the First Schedule;

(*f*) "textile company" means a company (being a company as defined in the Companies Act, 1956) specified in the third column of the First Schedule, as owning the undertaking specified in the corresponding entry in the second column of that Schedule; 1 of 1956.

(*g*) words and expressions used herein and not defined but defined in the Companies Act, 1956, shall have the meanings respectively assigned to them in that Act. 1 of 1956.

CHAPTER II

TAKING OVER OF THE MANAGEMENT OF CERTAIN TEXTILE UNDERTAKINGS

Management of certain textile undertakings to vest in the Central Government.

3. (*1*) On and from the appointed day, the management of all the textile undertakings shall vest in the Central Government.

(*2*) The textile undertaking shall be deemed to include all assets, rights, leaseholds, powers, authorities and privileges of the textile company in relation to the said textile undertaking and all property, movable and immovable, including lands, buildings, workshops, projects, stores, spares, instruments, machinery, equipment, automobiles and other vehicles, and goods under production or in transit, cash balances, reserve fund, investments and booklets and all other rights and interests in or arising out of such property as were, immediately before the appointed day, in the ownership, possession, power or control of the textile company whether within or outside India and all books of account, registers and all other documents of whatever nature relating thereto.

(*3*) Any contract, whether express or implied, or other arrangement, in so far as it relates to the management of the business and affairs of the textile undertaking and in force immediately before the appointed day, or any order made by any court in so far as it relates to the management of the business and affairs of the textile undertaking and in force immediately before the appointed day shall be deemed to have terminated on the appointed day.

(*4*) All persons in charge of the management, including persons holding offices as directors, managers or any other managerial personnel, of the textile company in relation to the textile undertaking, immediately before the appointed day, shall be deemed to have vacated their offices as such on the appointed day.

(*5*) Notwithstanding anything contained in any other law for the time being in force no person in respect of whom any contract of management or other arrangement is terminated by reason of the provisions contained in sub-section (*3*), or who ceases to hold any office by reason of the provisions contained in sub-section (*4*), shall be entitled to claim any compensation for the premature termination of the contract of management or other arrangement or for the loss of office, as the case may be.

(*6*) Notwithstanding any judgment, decree or order of any court, tribunal or other authority or anything contained in any other law (other than this Ordinance) for the time being in force, every receiver or other person in whose possession or custody or under whose control the textile undertaking or any part thereof may be immediately before the appointed day, shall, on the commencement of this Ordinance, deliver the possession of the said undertaking or such part thereof, as the case may be, to the Custodian, or where no Custodian has been appointed, to such other person as the Central Government may direct.

(*7*) For the removal of doubts, it is hereby declared that any liability incurred by a textile company in relation to the textile undertaking before the appointed day shall be enforceable against the concerned textile company and not against the Central Government or the Custodian.

Custodian of the textile undertakings.

4. (*1*) The Central Government may, as soon as it is convenient administratively so to do, appoint any person or body of persons (including a Government company, whether in existence at the commencement of this Ordinance or incorporated thereafter) as a Custodian of the textile undertaking for the purpose of carrying on the management of such undertaking and the Custodian so appointed

shall carry on the management of the textile undertaking for and on behalf of the Central Government.

(2) On the appointment of a Custodian under sub-section (1), the management of the textile undertaking shall vest in such Custodian and all persons in charge of the management of such undertaking immediately before such appointment shall cease to be in charge of such management and shall be bound to deliver such management to the Custodian.

(3) The Central Government may, by notification, authorise the Custodian to appoint any person (including a Government company, whether in existence at the commencement of this Ordinance or incorporated thereafter) as the Additional Custodian of the textile undertaking.

(4) The Additional Custodian shall assist the Custodian in the exercise of his or its powers and duties under this Ordinance and shall function under the direction, supervision and control of the Custodian; and the Custodian may delegate to the Additional Custodian all or such of his or its powers as he or it may think fit.

(5) Subject to any general or special direction given or condition imposed by the Custodian, any person authorised by the Custodian to exercise any power may exercise that power in the same manner and with the same effect as if it had been conferred on that person directly by this Ordinance and not by way of authorisation.

(6) The Central Government may issue such directions (including directions as to initiating, defending or continuing any legal proceedings before any court, tribunal or other authority) to the Custodian as to his or its powers and duties as the Central Government deems to be desirable in the circumstances of the case, and the Custodian may also apply to the Central Government at any time for instructions as to the manner in which he or it shall conduct the management of the textile undertaking or in relation to any other matter arising in the course of such management.

(7) Subject to the other provisions of this Ordinance and the control of the Central Government, the Custodian shall be entitled, notwithstanding anything contained in the Companies Act, 1956, to exercise all the powers, in relation to the textile undertaking, of the Board of Directors of the textile company (including the power to dispose of any properties or assets of the textile company) whether such powers are derived from the Companies Act, 1956, or from the memorandum and articles of association of the concerned textile company or from any other source. 1 of 1956.

(8) Every person having possession, custody or control of any property forming part of the textile undertaking shall deliver forthwith such property to the Custodian or to any officer or other employee of the Central Government or the Custodian, as may be authorised by the Central Government or the Custodian in this behalf.

(9) Any person who, on the appointed day, has in his possession or under his control any books, papers or other documents relating to the textile undertaking the management of which has vested in the Central Government under this Ordinance, shall, notwithstanding anything contained in any other law for the time being in force, be liable to account for the books, papers and other documents (including such minutes books, cheque books, letters, memoranda, notes or other communications) to the Custodian and shall deliver them up to

the Custodian or to any such person (being an officer or other employee of the Central Government or the Custodian) as may be authorised by the Central Government or the Custodian in this behalf.

(*10*) Every person in charge of the management of any textile undertaking immediately before the appointed day shall, within ten days from that day or within such further period as the Central Government may allow in this behalf, furnish to the Custodian a complete inventory of all the properties and assets (including particulars of book debts and investments and belongings) forming part of the undertaking immediately before the appointed day and of all the liabilities and obligations of the textile company in relation to the undertaking, subsisting immediately before that day, and also of all agreements entered into by such textile company in relation to the undertaking and in force immediately before that day.

(*11*) The Custodian and the Additional Custodian shall receive from the funds of the textile undertakings such remuneration as the Central Government may fix.

Payment of amount.

5. (*1*) Every textile company shall be given by the Central Government an amount, in cash, and at the rate specified in sub-section (*2*), for the vesting in it, under section 3, of the management of the textile undertaking of the company.

(*2*) For every month during which the management of the textile undertaking remains vested in the Central Government under this Ordinance, the amount, referred to in sub-section (*1*), shall be computed—

(*i*) for a spinning unit, at the rate of fifty paise per 1,000 spindles or any part thereof;

(*ii*) for a weaving unit, at the rate of one rupee per 100 looms or any part thereof;

(*iii*) for a composite unit with or without dye-house at the rate of fifty paise per 1,000 spindles or any part thereof plus one rupee per 100 looms plus one paisa per 10,000 metres of cloth processed in the dye-house based on the average monthly production of the last three completed years;

(*iv*) for a wholly processing unit (being a unit which does not have any spindle or loom), one paisa per one thousand square metres or any part thereof of the average of the total quantity of textiles processed during the period of three years immediately preceding the appointed day in such unit.

CHAPTER III

POWER TO PROVIDE RELIEF TO THE TEXTILE UNDERTAKINGS

Power of the Central Government to make certain declarations in relation to certain textile undertakings.

6. (*1*) The Central Government may, if satisfied, in relation to any of the textile undertakings or any part thereof, the management of which has vested in it under this Ordinance, that it is necessary so to do in the interests of the general public with a view to preventing any fall in the volume of production of such undertaking, by notification declare that—

(*a*) all or any of the enactments specified in the Second Schedule shall not apply or shall apply with such adaptations, whether by way of modification, addition or omission (which does not, however, affect the policy of the said enactments) to such undertaking as may be specified in such notification, or

(*b*) the operation of all or any of the contracts, assurances of property, agreements, settlements, awards, standing orders or other instruments in force (to which such textile undertaking or the textile company owning such undertaking is a party or which may be applicable to such textile undertaking or textile company) immediately before the date of issue of the notification shall remain suspended or that all or any of the rights, privileges, obligations and liabilities accruing or arising thereunder before the said date, shall remain suspended or shall be enforceable subject to such adaptations and in such manner as may be specified in the notification.

(2) The notification made under sub-section (*1*) shall remain in force, in the first instance, for a period of one year but the duration of such notification may be extended from time to time by a further notification by a period not exceeding one year at a time:

Provided that no such notification shall, in any case, remain in force after the expiry of three years from the commencement of this Ordinance.

(3) Any notification made under sub-section (*1*) shall have effect notwithstanding anything to the contrary contained in any other law, agreement or instrument or any decree or order of a court, tribunal, officer or other authority or in any submission, settlement or standing order.

(*4*) Where by virtue of a notification under clause (*b*) of sub-section (*1*), any right, privilege, obligation or liability remains suspended or is enforceable subject to the adaptations and in the manner specified in the notification, all proceedings relating thereto pending before any court, tribunal, officer or other authority shall accordingly remain stayed or be subject to such adaptations, as the case may be; so however, on the notification ceasing to have effect—

(*a*) such right, privilege, obligation or liability shall be enforceable as if the notification had never been made;

(*b*) any proceeding so remaining stayed shall be proceeded with subject to the provisions of any law which may be then in force, from the stage which had been reached when the proceeding became stayed.

(5) In computing the period of limitation for the enforcement of any right, privilege, obligation or liability referred to in clause (*b*) of sub-section (*1*), the period during which, it or the remedy for the enforcement thereof remained suspended shall be excluded.

CHAPTER IV

MISCELLANEOUS

Ordinance to have overriding effect.

7. The provisions of this Ordinance or any notification, order or rule made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any law (other than this Ordinance) or in any instrument having effect by virtue of any law other than this Ordinance or in any decree or order of any court.

Application of Act 1 of 1956.

8. (*1*) So long as the management of the textile undertaking of a textile company remains vested in the Central Government under this Ordinance, notwithstanding anything contained in the Companies Act, 1956 or in the memorandum or articles of association of such company,—

(*a*) it shall not be lawful for the shareholders of the textile company or any other person to nominate or appoint any person to be a Director of such textile company in relation to such undertaking;

(*b*) no resolution affecting (whether directly or indirectly) such undertaking which is passed at any meeting of the shareholders of the textile company on or after the appointed day shall be given effect to unless approved by the Central Government;

(*c*) no proceeding for the winding up of the textile company or for the appointment of a liquidator or receiver in respect thereof shall lie in any court except with the consent of the Central Government.

(*2*) Subject to the provisions contained in sub-section (*1*), and to the other provisions contained in this Ordinance and subject to such other exceptions, restrictions and limitations, if any, as the Central Government may, by notification, specify in this behalf, the Companies Act, 1956, shall continue to apply to the textile companies in the same manner as it applied thereto before the appointed day.

1 of 1956.

Exclusion of period of operation of this Ordinance from limitation.

9. In computing the period of limitation prescribed by any law for the time being in force for any suit or application against any person by any of the textile companies in respect of any matter arising out of any transaction in relation to its textile undertaking, the time during which this Ordinance remains in force shall be excluded.

Protection of action taken in good faith.

10. (*1*) No suit, prosecution or other legal proceeding shall lie against the Central Government or the Custodian or the Additional Custodian or any officer or other employee of the Central Government or the Custodian for anything which is in good faith done or intended to be done under this Ordinance.

(*2*) No suit or other legal proceeding shall lie against the Central Government or the Custodian or the Additional Custodian or any of the officers or other employees of the Central Government or the Custodian for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Ordinance.

Contracts, etc., in bad faith may be cancelled or varied.

11. (*1*) If the Central Government is satisfied, after such inquiry as it may think proper, that any contract or agreement entered into at any time within three years immediately preceding the appointed day between any of the textile companies or managing or other director of any such textile company and any other person in relation to any service, sale or supply to, or by, its textile undertaking and in force immediately before the appointed day, has been entered into in bad faith, or is detrimental to the interests of the textile undertaking of the concerned textile company, it may make, within one hundred and eighty days from the appointed day, an order cancelling or varying (either unconditionally or subject to such conditions as it may think fit to impose) such contract or agreement and thereafter the contract or agreement shall have effect accordingly:

Provided that no contract or agreement shall be cancelled or varied except after giving to the parties to the contract or agreement a reasonable opportunity of being heard.

(*2*) Any person aggrieved by an order made under sub-section (*1*) may make an application to the principal civil court of original jurisdiction within the local limits of whose jurisdiction the registered office of the concerned

textile company is situated for the variation or reversal of such order and thereupon such court may confirm, modify or reverse such order.

Avoidance of voluntary transfers.

12. Any transfer of property, movable or immovable, or any delivery of goods made by or on behalf of any of the textile companies (not being a transfer or delivery made in the ordinary course of its business or in favour of a purchaser for valuable consideration and in good faith), if made within a period of six months immediately preceding the appointed day, shall be void against the Central Government or the Custodian, as the case may be.

Power to terminate contracts of employment.

13. If the Custodian is of opinion that any contract of employment entered into by any textile company or managing or other director of the company in relation to its textile undertaking at any time before the appointed day is unduly onerous, he or it may, by giving to the employee one month's notice in writing or salary or wages for one month in lieu thereof, terminate such contract of employment.

Penalties.

14. (*1*) Any person, who—

(*a*) having in his possession or custody or under his control any property forming part of any of the textile undertakings, wrongfully withholds such property from the Custodian or any person authorised under this Ordinance, or

(*b*) wrongfully obtains possession of any such property, or

(*c*) wilfully retains any property forming part of such textile undertaking or removes or destroys it, or

(*d*) wilfully withholds from, or fails to deliver to, the Custodian or any person authorised under this Ordinance, any books, papers or other documents relating to such textile undertaking which may be in his possession, power or custody or under his control, or

(*e*) fails, without any reasonable excuse, to furnish information or particulars as provided in section 4,

shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to ten thousand rupees, or with both.

(*2*) No court shall take cognizance of an offence punishable under this section except with the previous sanction of the Central Government or an officer authorised by that Government in this behalf.

Offences by companies.

15. (*1*) Where an offence under this Ordinance has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge and that he had exercised all due diligence to prevent the commission of such offence.

(*2*) Notwithstanding anything contained in sub-section (*1*), where an offence under this Ordinance has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(*a*) "company" means any body corporate and includes a firm or other association of individuals; and

(*b*) "director", in relation to a firm, means a partner in the firm.

Power to make rules.

16. (*1*) The Central Government may, by notification, make rules for carrying out the provisions of this Ordinance.

(2) Every rule made by the Central Government under this Ordinance shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

THE FIRST SCHEDULE

[*See* section 2 (*f*)]

S. No.	Name of the undertaking	Name of the owner
1	2	3
1	Elphinstone Spinning and Weaving Mills, Elphinstone Road, Bombay.	The Elphinstone Spinning and Weaving Mills Co. Ltd., Kamani Chambers, 32, Ramji Bhai Kamani Marg, Bombay-38.
2	Finlay Mills, 10/11, Dr. S. S. Rao Road, Bombay.	The Finlay Mills Ltd., Chartered Bank Building, Fort, Bombay-23.
3	Gold Mohur Mills, Dadasaheb Phalke Road, Dadar, Bombay.	The Gold Mohur Mills Ltd., Chartered Bank Building, Fort, Bombay-23.
4	Jam Manufacturing Mills, Lalbaug, Parel, Bombay.	The Jam Manufacturing Co. Ltd., Lalbaug, Parel, Bombay-12.
5	Kohinoor Mills (No. 1), Naigaum Cross Road, Dadar, Bombay.	The Kohinoor Mills Co. Ltd., Killick House, Charanjit Rai Marg, (Home Street), Fort, Bombay-1.
6	Kohinoor Mills (No. 2), Naigaum Cross Road, Dadar, Bombay.	The Kohinoor Mills Co. Ltd., Killick House, Charanjit Rai Marg (Home Street), Fort, Bombay-1.
7	Kohinoor Mills (No. 3), Lady Jamshedji Road, Dadar, Bombay.	The Kohinoor Mills Co. Ltd., Killick House, Charanjit Rai Marg (Home Street), Fort, Bombay-1.
8	New City of Bombay Manufacturing Mills, 63, Tukaram B. Kadam Marg, Bombay.	The New City of Bombay Manufacturing Co. Ltd., 63, Tukaram Bhisaji Kadam Path, Bombay-33.
9	Podar Mills, N. M. Joshi Marg, Bombay.	The Podar Mills Ltd., Podar Chambers, Syed Abdulla Brelvi Road, Fort, Bombay-1.
10	Podar Mills (Process House), Ganpat Rao Kadam Marg, Bombay.	The Podar Mills Ltd., Podar Chambers, Syed Abdulla Brelvi Road, Fort, Bombay-1.
11	Shree Madhusudan Mills, Pandurang Budhkar Marg, Bombay.	Shree Madhusudan Mills Ltd., 31, Chowringhee Road, Calcutta-16.
12	Shree Sitaram Mills, N. M. Joshi Marg, Bombay.	Shree Sitaram Mills Ltd., N. M. Joshi Marg, Bombay-11.
13	Tata Mills, Dr. Ambedkar Road, Dadar, Bombay.	The Tata Mills Ltd., Bombay House, 24, Homi Mody Street, Fort, Bombay-23.

THE SECOND SCHEDULE

(*See* section 6)

1. The Industrial Employment (Standing Orders) Act, 1946.	20 of 1946.
2. The Industrial Disputes Act, 1947.	14 of 1947.
3. The Minimum Wages Act, 1948.	11 of 1948.

ZAIL SINGH,
President.

R. V. S. PERI SASTRI,
Secy. to the Govt. of India.

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